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## **CALL TO ORDER & ATTENDANCE**

Chair Pete Woll called the March 13, 2023, 310-meeting to order at 7:00 P.M. in the conference room.

**Board members present:** Pete Woll, Chair; John Ellis; Vice Chair; Donna Pridmore, Secretary/Treasurer; Roger Marsonette, Supervisor; Scott Rumsey, Supervisor; Gordon Ash, Supervisor; being a quorum of the Board.

**Board members absent:** Absence is excused.

Also, in attendance were Samantha Tappenbeck, Jessie Walthers, Ginger Kauffman, Flathead CD Staff; Bill Yankee, Associate Supervisor; Leo Rosenthal, Fish Wildlife Parks; Connor Loughran, 406 Engineering; Dan Bangeman, Gail Pauley; Mike Kopitzke; Mary T. McClelland; Mikel Siemens, CORE Water Consulting; Terry Divoky; John & Stacy Ambler; Rick & Carole Murphy; Trent Baker, Attorney for John & Stacy Ambler; Steve, Vernetta & Josiah Wagoner, Wagoner's Sand & Gravel; Mike Rotar; William Lundgren; Doug, Karen, Anastasia Fallet and Jen Fallet-McCaw; Mike Holwick, Devil Dog Investments; Sharon Bankson; Brent Johnson; Chis Peterson, Hungry Horse News; Onno Wieringa; Eric Garberg; Dan Wallen; Scott Krandell; Kate Kindler; Mark Salisbury, Village Green Golf Course; Jeff Ray; Rick Yates; Cathy Mitchell; Erik Garber, Jackola Engineering; Kate Kendall; Becky Williams; Tyler Scott, Ruis Construction.

## **CONSENT AGENDA**

### **Consent Agenda Item 1: Signature Authority**

- Authorization for Samantha Tappenbeck to sign on behalf of Supervisors attending the meeting virtually.

### **Consent Agenda Item 2: Minutes**

- 2/13/2023 310-Stream Permit Meeting Minutes

### **Consent Agenda Item 3: Financial**

Check Detail dated 3/1/2023:

1. DNRC FBC (Flathead Basin Commission) \$500.00
2. Flathead Beacon \$528.00
3. Montana Sky Networks Inc. \$10.00
4. Susan D. Hulslander, CPA \$213.00
5. FFE (Family Forestry Expo) \$3,500.00

Check Detail dated 3/7/2023

1. Fishers Technology \$287.00

#### Consent Agenda Item 4: Correspondence

- None

John Ellis motioned “to approve the consent agenda as listed.” Scott Rumsey seconded. Motion carried unanimously.

#### **PUBLIC COMMENT**

No one was present to comment on items not listed on the agenda.

#### **310's**

**Ambler**, FL-2023-007C, FL-2023-010C, FL-2023-011C, FL-2023-012C, FL-2023-013C, FL-2023-014C, FL-2023-015C, FL-2023-016C, FL-2023-017C, FL-2023-018C, FL-2023-022C, FL-2023-023C, FL-2023-024C, FL-2023-026C, FL-2023-027C, FL-2023-030C, FL-2023-033C, McDonald Creek, complaint:

Roger Marsonette explained an onsite inspection was completed 2/27/2023. The team found a house was under construction on McDonald Creek, and the streambank had been excavated to create a pad for the excavation.

Roger Marsonette motioned “activity has been initiated on a perennial flowing stream without a valid permit and this is considered a violation. John Ellis seconded. Motion carried unanimously.

Samantha Tappenbeck noted that the district has received 17 complaints. At the time of the onsite the district had only received a response to a sub-set of those complaints. We should specify which complaints we are moving on and making this determination. Roger stated this is in reference to: FL-2023-007C, FL-2023-010C, FL-2023-011C, FL-2023-012C, FL-2023-013C, FL-2023-014C, FL-2023-015C, FL-2023-016C, FL-2023-017C, FL-2023-018C. Samantha added there were subsequently complaints to which we received a response after the onsite inspection was completed, and so either another onsite would need to be scheduled or the determination that is being made this evening be applied to those.

John Ellis motioned “to apply the findings tonight to the seven additional complaints as they alleged the exact same thing that was alleged in the complaints that were listed out; and I see no reason for us to return to McDonald Creek to view it a second time when there has been no material change.” Scott Rumsey seconded. Motion carried unanimously.

Samantha stated we have one more complaint that we have not received a response to as of March 10<sup>th</sup>. Staff noted that a response was received today to FL-2023-033C. Pete Woll stated all the complaints will be handled under this one onsite inspection.

Roger reviewed the following findings/recommendations in the Inspection Report:

1. Structure to be removed after high water and before 11/1/2023. A 310-permit shall be in place for the structure removal.

2. The streambank shall be restored to its original slope and revegetated by 11/1/2023.
3. A 310-permit shall be in place prior to the restoration and revegetation of the streambank.
4. Erosion control measures shall be implemented prior to the structure removal and restoration of the bank.

Samantha noted for the Board's consideration that legal counsel representing the violators has requested additional time to submit supplemental responses to their complaint response.

John Ellis motioned "to forward the recommendation made in the Inspection Report to the landowners for their corrective action." Roger Marsonette seconded. Motion carried unanimously.

Leo Rosenthal asked if construction was going to continue on the house in the meantime following the determination of violation. Attorney Trent Baker responded that it is his understanding that construction has been halted with respect to anything except what is necessary to preserve what's there right now in terms of getting things dried in; but, any further construction is essentially halted at this point. Mr. Baker clarified that his request was to table the district's decision on whether or not this was a 310-violation to provide opportunity to submit more information on that point. Mr. Baker also stated that he understood that the supervisors have voted that this is a violation, but he thinks it would be good just for the record to take up that request or deem it denied.

John Ellis motioned "to table all of the complaints until the April 310-meeting." Scott Rumsey seconded.

Donna Pridmore asked how can we table something that we have already voted on? John Ellis concurred, but said he wanted the record to show a decision to that effect so he doesn't see any harm in taking up the motion and voting on it. Gordon Ash stated he was unclear on tabling this for further review. Gordon's impression is this is a violation, there have been recommendations by the team with the Inspection Report that the structure is to be removed because of this violation. John Ellis stated that because their attorney has asked us to do that and out of courtesy to them, he thinks we can do that. If a majority of the supervisors would vote to table the complaints, then we could file a motion to reconsider our previous vote. But John Ellis did not see any reason to go through reconsidering our previous vote unless we know that a majority of the supervisors would vote to table.

Donna Pridmore posed a question to Mr. Baker, to clarify what type of information could be provided that could possibly change her vote. Trent Baker stated the Amblers have retained a highly experienced engineer who has worked in this area in terms of 310-permitting and hydrology; Mike Rotar who is in attendance. Mr. Baker stated that that he himself is not a professional in that area but understands that there is significant analysis and hydraulic modeling that could be done to determine the potential impacts of this structure on stream function, and that has not been done yet. Donna Pridmore stated that did answer her question, but regardless of all that time and money and expertise that's going to be expended, that's not going to change her vote about whether or not this was a violation of the 310 process. Gordon Ash added it is a violation, the additional analysis will definitely be appreciated, but it would be

directed towards the 310-permit application that would be necessary to remove the structure as identified.

Question called. Roger Marsonette asked for an individual vote.

In favor of the motion: None.

Those opposed: Pete, John, Donna, Scott, Roger, Gordon.

Motion failed.

**Big Sky Invest**, FL-2022-052, Garnier Creek, subdivision/culvert/re-vegetate etc.: John Ellis explained the application was tabled last fall, and at the last 310-meeting the Board requested that the applicant attend in person to explain what they want to do and what has changed. Erik Garber, Jackola Engineering, reviewed original plans, and what items on those plans have changed.

John Ellis motioned “to approve FL-2022-052 as modified by correspondence received from the applicant on 11/9/2022, 1/18/2023, 2/7/2023, 3/6/2023. Any disturbed areas within the riparian zone will need to be revegetated with native grasses, bushes, and trees. Lots 14A and 14B lie at the top of a continuous slope of Garnier Creek; no building or other permanent structures such as walks, accessory buildings, patios, decks, etc. could be permitted within 20-feet from the top of this bank.” Roger Marsonette seconded. Motion carried unanimously.

**Brazan**, FL-2023-008, Stillwater River, pier: Donna Pridmore explained an onsite inspection was completed 2/17/2023, and they requested the submit additional information. Nothing has been received to date.

Donna Pridmore motioned “to table FL-2023-008 until April 30<sup>th</sup>.” John Ellis seconded. Motion carried unanimously.

**Buck**, FL-2021-041C, Stoner Creek, complaint: Donna Pridmore explained that the complaint was tabled until we received the Work Completion form for permit #FL-2021-106. She sent a postcard reminder to the applicant on 11/1/2022 that permit #FL-2021-106 will expire 12/13/2022. The Work Completion form has not been received to date. Scott Rumsey stated since supervisor areas have changed, he now has the Follow-up Inspection Report.

Scott Rumsey will contact the landowner to do a follow-up inspection when the site is viewable. Samantha Tappenbeck noted that if the landowner is unresponsive, Scott should contact the office and staff will send a letter to Buck.

**Devil Dog Investments**, FL-2023-031, Swan River, seawall: Pete Woll explained this is for the same project as permit #FL-2021-083. The 310-permit expired, so the applicant is re-submitting the application. The applicant noted that they will wait until the end of the year when the lake is lower to begin construction. Pete added that the bank and wall are beginning to fail, and work needs to be done so houses do not slide down into Bigfork Bay.

Pete Woll motioned “on FL-2023-031 to approve as submitted with the same conditions listed in FL-2021-083.” John Ellis seconded. Motion carried unanimously.

Pete Woll motioned “this is a project as defined by the rules, and the onsite will be waived.” John Ellis seconded. Motion carried unanimously.

**Glacier Village Greens HOA**, FL-2023-001, Whitefish River, debris removal: An onsite inspection was completed 2/14/2023. Roger Marsonette explained Glacier Village Greens HOA has an irrigation pump in the river and wants to clean silt around the pump. The bank on the east side of Whitefish River is beginning to erode and the river is moving away from the pump site, so they will need a long-term solution.

Roger Marsonette motioned “to approve the Glacier Village Greens HOA application for a one-time silt removal with the following modifications: Equipment used during the project shall be clean of weeds and in good working order; free of leaks, oil, or fuel. The silt barriers to be installed to prevent soil from entering the stream after excavation. The silt removal to occur during low water. Silt removal will be done right at and under the intake.” Donna Pridmore seconded. Motion carried unanimously.

**Hodges**, FL-2022-071, Giefer Creek, fill beaver pond: Scott Rumsey stated the applicant contacted him about scheduling an onsite inspection. There is still about 2-feet of snow on the ground, and Scott told him an onsite would be scheduled when the ground is viewable.

Scott Rumsey motion “to table until the April 310-meeting and make a determination if it is viewable or not.” John Ellis seconded. Motion carried unanimously.

**Inspiration Drive**, FL-2022-007, Whitefish River, path/retaining wall/stairs: John Ellis explained this remains tabled until the issue with the River View Condos and the bridge is resolved, until further information is received from Casey Malmquist. John added that the condominiums are being built, but nothing has been proposed for the path.

**Klempel**, FL-2023-025, Boorman Creek, culverts: Donna Pridmore motioned “this is a project.” John Ellis seconded. Motion carried unanimously. An onsite inspection was scheduled for Tuesday, March 21, 2023, 9:00 A.M. at the site.

**Levesque**, FL-2023-029, Flathead River, bank stabilization: Scott Rumsey motioned “this is declared a project.” John Ellis seconded. Motion carried unanimously. An onsite inspection was scheduled for Friday, March 24, 9:00 A.M. at the site.

**Mitchell**, FL-2021-099, Stillwater River, permit extension request: Donna Pridmore explained that the district received a request for permit extension on 2/21/2023, as work has not been completed.

Donna Pridmore motioned to “approve a one-year permit extension.” John Ellis seconded. Motion carried unanimously.

**Patterson**, FL-2022-066, Garnier Creek, bank stabilization/revegetate: Supervisors Roger Marsonette and Scott Rumsey, and Kenny Breidinger will meet to discuss the application prior to re-scheduling the onsite inspection. The site is currently unviewable.

Roger Marsonette motioned “to table FL-2022-066 until the April 310-meeting and we will schedule at that time.” John Ellis seconded. Motion carried unanimously.

**Sethre**, FL-2021-109, Flathead River, permit extension request: The district office received a permit extension request prior to the permit expiring on 2/28/2023.

Donna Pridmore motioned “on FL-20221-109 to approve the one-year extension request.” John Ellis seconded. Motion carried unanimously.

**Sethre**, FL-2023-028, Flathead River, tree removal: Scott Rumsey motioned “this is a project.” Donna Pridmore seconded. Motion carried unanimously. An onsite inspection was scheduled for Friday, March 24, 2023, 11:00 A.M. at the site.

**Siblerud Properties LLC**, FL-2023-032, Flathead River, docks: Pete Woll motioned “this is a project.” John Ellis seconded. Motion carried unanimously. An onsite inspection was scheduled for Tuesday, March 28, 10:00 A.M. at the site.

**Sneed (Carson)**, FL-2023-005, Flathead River, bank stabilization/revegetation/dock: The onsite inspection was completed 3/7/2023. Scott Rumsey explained this property and the William Sneed (application #FL-2023-004) property adjoin each other. Continuous rip rap is proposed for the bank on both properties, following vegetation removal for 180-feet plus. The riparian area has cottonwood and alder on the bank with almost continuous vegetation on both properties. The project proposal called for sloping the bank, then applying rip rap which would entail removing all the vegetation. Scott stated the removal of all vegetation will severely impact riparian habitat and stability. He cited Adopted Rules Chapter 2. A. 9. and stated streambank vegetation will NOT be protected. He also cited Adopted Rules Chapter 2. D. 2.c. and stated natural vegetation will NOT be preserved as specified in the rules adopted under the Montana Streamside Management Zone law.

Scott Rumsey motioned “to deny application FL-2023-005 per the Team Member Report.” Donna Pridmore seconded. Motion carried unanimously.

**Sneed (Chuck)**, FL-2022-057C, Meadow Creek, complaint: The complaint was determined a violation on 11/14/2022, and the landowner was to submit a 310-application by 3/31/2023. Pete Woll explained that Connor Loughran, 406 Engineering, sent an email on 3/6/2023 stating they will be submitting a 310-application for Mr. Sneed, but are waiting for the site to be viewable.

Pete Woll motioned “to table the complaint and extend submittal of the application to 4/15/2023.” John Ellis seconded. Motion carried unanimously.

Pete Woll motioned “to hire a consultant to review FL-2022-057C, FL-2022-058C, and FL-2023-009.” John Ellis seconded. Motion carried unanimously.

**Sneed (Chuck)**, FL-2022-058C, Patterson Creek, complaint: On 10/11/2022 this was determined a violation and the landowner was to submit an application. The application (FL-2023-009) was received 1/30/2023.

Pete Woll proposed hiring a consultant to do a technical review of Patterson Creek and Meadow Creek as a whole. He noted that these streams flow from Lake County into Flathead County. Lake Conservation District has information on the Lake County side. Past history and information that would be pertinent to applications decisions is needed. Pete, Leo Rosenthal, and Samantha Tappenbeck will work on questions for the review.

Pete Woll motioned “to hire a consultant to review FL-2022-057C, FL-2022-058C, and FL-2023-009.” John Ellis seconded. Motion carried unanimously.

**Sneed (Chuck)**, FL-2023-009, Patterson Creek, stream diversion/excavation/irrigation/headgate: This application was received 1/30/2023 in response to complaint FL-2022-058C. Application FL-2023-009 was tabled on 2/13/2023 until an application is received in response to complaint FL-2022-057C on Meadow Creek.

Pete Woll motioned “to hire a consultant to review FL-2022-057C, FL-2022-058C, and FL-2023-009.” John Ellis seconded. Motion carried unanimously.

**Sneed (William)**, FL-2023-004, Flathead River, bank stabilization/revegetation: An onsite inspection was completed 3/7/2023. Scott Rumsey explained this property and the Carson Sneed (application #FL-2023-005) property adjoin each other. Continuous rip rap is proposed for the bank on both properties, following vegetation removal for 180-feet plus. The riparian area has cottonwood and alder on the bank with almost continuous vegetation on both properties. The project proposal called for sloping the bank, then applying rip rap which would entail removing all the vegetation. Scott stated the removal of all vegetation will severely impact riparian habitat and stability. He cited Adopted Rules Chapter 2. A. 9. and stated streambank vegetation will NOT be protected. He also cited Adopted Rules Chapter 2. D. 2.c. and stated natural vegetation will NOT be preserved as specified in the rules adopted under the Montana Streamside Management Zone law.

Scott Rumsey motioned “to deny application FL-2023-004 per the Team Member Report.” John Ellis seconded. Motion carried unanimously.

**Turner**, FL-2021-081C, Swan River, complaint: Pete Woll explained the complaint will remain tabled until permit #FL-2022-008 is completed; the permit expires 5/9/2023.

**Wagoner’s Sand & Gravel**, FL-2023-019, Flathead River, rip rap trench: Roger Marsonette stated the onsite inspection was completed 2/28/2023. He explained there is a 50-foot section between the bank and pond where the applicants propose to bury rock rip rap for a length of 1827-feet. They propose to dig a trench about 10-feet off the edge of the bank and approximately 13-feet down, bury the rip rap, and backfill over the top of the trench. Roger stated this is outside the Adopted Rules for bank stabilization. He noted that during the onsite Kenny Breidinger was concerned that by digging the trench it would weaken the bank between the edge of the trench and the streambank and may accelerate the erosion more than it is now. Roger and Kenny felt that due to the extensive nature of the proposal, a technical review by a professional engineer or hydrologist is warranted.

Roger Marsonette motioned “to table the application and request a technical review.” John Ellis seconded. Motion carried unanimously.

Questions for the technical review were discussed and Roger stated that he and Kenny will compile a list of questions. Samantha Tappenbeck explained cost for the review would come out of 310 Administrative Grant CDA-23-0092 and noted that if cost is more than \$5000 a limited solicitation would need to be done. She asked if the Board had a date for completion of the technical review and noted that it is important to outline the questions so an estimate could be provided to the district. Samantha will do further research and bring information back to the Board.

**Wagoner's Sand & Gravel**, FL-2023-020, Flathead River, gravel mining/pit: The onsite inspection was completed 2/28/2023.

Roger Marsonette motioned "to approve the application with modifications for the mining operation per the Team Member Report. The mining operation will be in accordance with conditions that were set out in permit FL-2013-007. This is a 10-year permit. The mining operation will also be in accordance with condition as authorized by the DEQ mining permit." John Ellis seconded. Motion carried unanimously.

**NEW BUSINESS**

None

**MATTERS OF THE BOARD/STAFF**

**Home & Garden Show:** Staff and Supervisors reported that the Home & Garden Show provided good discussions with attendees and agreed that the district should have a booth in the future.

The next business meeting is scheduled for Monday, March 27, 2023, 7:00 P.M. in person and via ZOOM.

Adjournment: John Ellis motioned "to adjourn. Roger Marsonette seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 9:23 P.M.

Submitted By:  
Ginger Kauffman  
Administrator

Reviewed By:  
Samantha Tappenbeck  
Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>4/10/2023</u>	<u>Donna Pridmore</u>	<u>Secretary/Treasurer</u>
(Date)	(Signature)	(Title – Chair etc.)